IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

Bail Appl..No. 6270 of 2007()

LPC.46/1997 of J.M.F.C.-II, KANNUR
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(CRIME NO.320/1992 OF VALAPATTANAM POLICE STATION)

PETITIONER/ACCUSED:

PRAKASAN AIKKAL,
S/O.NARAYANAN, AGED 37 YEARS, AIKKAL HOUSE,
THURUTHIKOVVAL, PAPPINISSERI P.O.,
KANNUR DISTRICT.

BY ADV. SRI.P.U.SHAILAJAN

RESPONDENT: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY STATION HOUSE OFFICER,
VALAPATTANAM POLICE STATION,
THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R. BASANT, J.

B.A. No. 6270 OF 2007

Dated this the 10th day of October, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations for offences punishable, inter alia, under Sec.353 read with Sec.149 of the IPC. Investigation is complete. Final report has been filed. Cognizance has been taken. The petitioner, who was once released on bail, was not later available for trial. The case against the co-accused has already been tried, found not guilty and acquitted. The case against the petitioner has been split up. It has now been transferred to the list of Long Pending Cases. The crime was registered in 1992. Coercive processes have been issued against the petitioner. The petitioner finds such processes chasing him.

2. According to the petitioner, he is absolutely innocent.

His absence earlier was not wilful or deliberate. He is willing to surrender before the learned Magistrate and seek regular bail. The petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior

notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

4. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge